

Number: **201127007**
Release Date: 7/8/2011
Index Numbers: **6041.03-00, 61.40-00**

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact: _____, ID No. _____

Telephone Number:

Refer Reply To:
CC:ITA:4
PLR-144585-10

Date:
April 05, 2011

Company =

Taxpayer =

B =

C =

$$D =$$
$$E =$$

Program 1 =

Program 2 =

Act =

year 1 =

$$\underline{x} =$$

Dear _____ :

This is in reply to your request for a ruling that certain payments Taxpayer will make on behalf of D pursuant to Program 2 do not constitute gross income to the D, and thus, are not subject to information reporting requirements under § 6041 of the Internal Revenue Code.

FACTS

Company is a publicly-traded holding company whose wholly owned subsidiary, Taxpayer, is engaged in B. Company and Taxpayer are members of a single consolidated group that files a corporate income tax return with the Internal Revenue Service (Service).

Program 1, which provides E, was eliminated by the enactment of Program 2 in year 1, as part of the Act. The implementation of Program 2 adversely affected certain employees engaged in B. Program 2 authorizes C, an agency of the federal government, to make payments to businesses to retrain and redeploy D who were affected adversely by the implementation of Program 2.

In year 1, C, awarded Taxpayer \$x to retrain and redeploy Taxpayer's D who were affected adversely by the implementation of Program 2. C's \$x grant is the sole source of the payments that will be used to assist Taxpayer's D who were affected adversely by the implementation of Program 2. The grant payment will be made for job training and related services to enhance the employability of the D. Taxpayer requests a ruling that the following services and payments provided from the \$x grant for the benefit of its D (collectively, the D Transition Program Payments) are excluded from their income under the general welfare exclusion and thus are not subject to information reporting requirements under § 6041:

- *Tuition and fee assistance*—reimbursement for courses or training to help D find employment with another company;
- *Course books*—reimbursement for all books required for D's selected course of study;
- *Other related education and training expenses*—reimbursement for eligible expenses such as lab fees, test fees, graduation fees, and the cost of certain materials and supplies (excluding laptops, uniforms, calculators, and printers);
- *Career fairs*; and
- *Personalized job search assistance, including analysis of career skills and resume preparation*—reimbursement for expenses incurred by D in meeting with an external recruiter who tailors the individual's job search strategy and options.

LAW AND ANALYSIS

Section 61(a) provides that, except as otherwise provided by law, gross income means all income from whatever source derived. Under § 61, Congress intends to tax all gains and undeniable accessions to wealth, clearly realized, over which taxpayers have complete dominion. *Commissioner v. Glenshaw Glass Co.*, 348 U.S. 426 (1955), 1955-1 C.B. 207.

Although § 61 provides for broad includibility in gross income, the Service has held that payments under legislatively provided social benefit programs for the promotion of general welfare are not includible in an individual's gross income (the general welfare exclusion). In determining whether the general welfare exclusion applies to payments, the Service generally requires that the payments (1) be made from a governmental general welfare fund; (2) be for the promotion of the general welfare (*i.e.*, generally on the basis of individual or family need, including financial or employment status); and (3) not be made for services furnished by the recipient. See, *e.g.*, Rev. Rul. 71-425, 1971-2 C.B. 76 (governmental payments to needy persons to participate in work experience programs that help them develop work habits to enhance employability are excluded from gross income under the general welfare exclusion). See *also* Situation 1 of Rev. Rul. 75-246, 1975-1 C.B. 24 (governmental payments to provide underemployed or disadvantaged individuals with occupational and vocational training and who do not perform any services for the training agency are excluded from their income under the general welfare exclusion) and Situation 3 of Rev. Rul. 75-246 (allowance that underemployed or disadvantaged individuals may receive to cover certain expenses incident to attending training program are excluded from gross income under the general welfare exclusion).

Section 6041 requires every person engaged in a trade or business to (1) file an information return for each calendar year in which the person makes in the course of its trade or business payments to another person of fixed and determinable income aggregating \$600 or more, and (2) furnish a copy of the information return to that person. See § 6041(a) and (d).

In the present case, the primary purpose of the D Transition Program Payments that Taxpayer will make is to provide D with the training and skills to maintain current employment or transition to positions with other employers. There is neither an expectation nor a requirement that D perform any services as a condition for receiving the payments. Therefore, the payments are from a governmental fund, based on individual need, and not compensation for services rendered.

CONCLUSION

Based strictly on the information submitted and the representations made, we conclude that the D Transition Program Payments that Taxpayer will make on behalf of its D are excluded from their income under the general welfare exclusion, and thus are not subject to income reporting requirements under § 6041.

We do not express or imply an opinion on the federal tax consequences of any aspect of these transactions other than those expressed in the conclusion above.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

The rulings contained in this letter are based upon information and representations that Company submitted under penalties of perjury. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Company and Taxpayer must attach to any income tax return to which it is relevant a copy of this letter or, if they file returns electronically, a statement providing the date and control number of this letter ruling.

Sincerely,

Michael J. Montemurro
Branch Chief
Office of Associate Chief Counsel
(Income Tax & Accounting)